

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Cunningham

Serial No.: **10/098,700**
Filed: **March 15, 2002**

For: **Method of Delivering Goods and
Services Via Media Related Applications**

Attorney's Docket No: **4000-007**

)
) **PATENT PENDING**
)

) **Examiner: C. Luke Gilligan**
)

) **Group Art Unit: 3626**
)

) **Confirmation No.: 6945**
)
)

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 279-8300.

December 16, 2010

Date

This correspondence is being:

☐ electronically submitted via EFS-Web

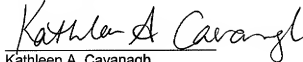
REMARKS FILED CONCURRENTLY WITH TERMINAL DISCLAIMER

The Board of Patent Appeals and Interferences filed a final Decision on November 18, 2010. In this Decision, the Board reversed the § 102(e) rejections of the pending claims but upheld the double patenting rejection in view of the U.S. Patent No. 5,832,449. Accordingly, a terminal disclaimer is submitted herewith which disclaims the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 5,832,449.

Because all substantive rejections have been reversed and the terminal disclaimer filed herewith overcomes the double patenting rejection, all claims in the instant application are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

A handwritten signature in cursive script, reading "Kathleen A. Cavanagh". The signature is written in dark ink and is positioned above a horizontal line.

Dated: December 16, 2010

Kathleen A. Cavanagh
Registration No.: 59,911

1400 Crescent Green, Suite 300
Cary, NC 27518
Raleigh, NC 27602
Telephone: (919) 854-1844
Facsimile: (919) 854-2084

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
4000-007

In re Application of: Cunningham et al.

Application No.: 10/098,700

Filed: March 15, 2002

For: Method of Delivering Goods and Services Via Media Related Applications

The owner*, TrialCard Incorporated, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 5,832,449 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

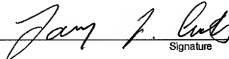
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 25,620


Signature

December 16, 2010

Date

Larry L. Coats

Typed or printed name

919-854-1844

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.